

CONSULTATION AGREEMENT
BETWEEN
ARIZONA BUREAU OF LAND MANAGEMENT, YUMA FIELD OFFICE
AND
U.S. FISH AND WILDLIFE SERVICE,
ARIZONA ECOLOGICAL SERVICES OFFICE
FOR
YUMA RESOURCE MANAGEMENT PLAN
AND ENVIRONMENTAL IMPACT STATEMENT

This Consultation Agreement (referred to as Agreement), is hereby entered into by and between the Arizona Bureau of Land Management, Yuma Field Office, hereinafter referred to as the YFO, and the U.S. Fish and Wildlife Service, Arizona Ecological Services Office, hereinafter referred to as the AESO.

1.0 Purpose and Need

This Agreement establishes cooperative interagency process between the YFO and the AESO to conduct Endangered Species Act (ESA) Section 7 consultation and coordination. Tetra Tech Inc., hereinafter referred to as Tetra Tech, was selected as the environmental services contractor to support the YFO during the ESA Section 7 consultation and National Environmental Policy Act (NEPA) compliance processes for the Yuma Resource Management Plan (RMP) and Environmental Impact Statement (EIS) project. Tetra Tech will participate as Bureau of Land Management's (BLM) non-Federal representative during the consultation and coordination with the U.S. Fish and Wildlife Service (USFWS).

This Agreement defines the process and actions, work products, tentative schedule, and other relevant expectations of the BLM and USFWS regarding the interagency cooperation for the Yuma RMP/EIS. This Agreement addresses consultation/conferencing with the USFWS on potential impacts on special status species (i.e., endangered, threatened, candidate, or proposed) and designated or proposed critical habitat occurring on public lands managed by the YFO in Arizona and California.

The programmatic complexity of this land use planning project necessitates upfront communication and continuous coordination between BLM, USFWS, and Tetra Tech to complete the consultation process in a timely manner for the Yuma RMP/EIS. The purpose of this Agreement is to facilitate the consultation/conferencing process with the USFWS to ensure that the proposed RMP and final

EIS are completed within the established schedule. The BLM, USFWS, and Tetra Tech will convene a team composed of designated personnel to complete the ESA Section 7 consultation process and contribute, as necessary, in the development of the Yuma RMP/EIS.

2.0 Background on Proposed Project

The YFO is preparing an RMP revision and associated EIS. The comprehensive RMP/EIS document will address a variety of issues and subsequent analysis of a reasonable range of alternatives for the BLM-managed surface and mineral estate within the YFO planning area. The revised Yuma RMP would replace the existing 1987 Yuma District RMP, as amended. The YFO planning area encompasses 1.3 million acres along the lower Colorado River in southwest Arizona and southeast California, extending eastward into Arizona (Figure 1). The planning area is located in Yuma, La Paz, and Maricopa counties in Arizona; and Imperial and Riverside counties in California.

The overall goal of the YFO planning effort is to provide a collaborative community-based planning approach to assist the BLM in updating the existing management decisions and resource allocations by addressing new data where available, changed resource conditions, changes in the uses of public lands, and latest BLM policies and planning directives. The analysis of resources and values within the planning area will permit the development of recommendations in alternatives for actions that could be taken on BLM-managed lands to enhance management of resources adjacent to and within the YFO. The BLM expects that various partners, cooperating agencies, stakeholders, and the Resource Advisory Council will become involved in this process and will assist in providing a wide variety of data in support of this planning effort. The primary objective is to prepare the Yuma RMP revision to comply with those determinations required in the Bureau of Land Management H-1601-1 Land Use Planning Handbook, Appendix C (Program-Specific and Resource-Specific Decision Guidance) (dated July 2004) for all affected resource management programs.

The final product for this planning effort will be a revised Yuma RMP for public lands managed by the YFO, analyzed within the context of an EIS under the NEPA. The RMP presents a common vision for the planning area through the collaboratively-based approach. An RMP is a comprehensive document that provides management directions for all resources and uses in the planning area. It establishes goals and objectives for resource management and measures needed to achieve these goals and objectives. It also identifies lands that are open or available for certain uses, including any restrictions, and lands that are closed to certain uses. An RMP contains broad land use planning decisions (i.e., goals, objectives, actions, and allowable uses) and customarily guides future site-specific implementation decisions. All activities in a planning area must be consistent with the guiding RMP. BLM land use planning follows a “tiered” approach, in which the RMP serves as the top-level programmatic guidance. Specific, on-the-ground actions usually require additional information and a more detailed impact analysis before the activities can be approved and implemented.

3.0 Specific Directives and Authority

Mandates and authority to enter into this Agreement are contained in the following:

- Federal Land Policy and Management Act of 1976 (FLPMA), as amended;
- National Environmental Policy Act of 1969 (NEPA), as amended;
- Endangered Species Act of 1973 (ESA), as amended, and 50 Code of Federal Regulations Part 402;
- Migratory Bird Conservation Act of 1979, as amended, and Executive Order 13186;
- Memorandum of Agreement on Endangered Species Act Section 7 Programmatic Consultations and Coordination among Bureau of Land Management, Forest Service, National Marine Fisheries Service, and Fish and Wildlife Service (dated August 30, 2000).

4.0 Consultation Actions

Completion of the draft EIS and final EIS for the draft RMP and proposed RMP, respectively, will require consultation/conferencing with the USFWS as identified in the ESA Section 7 Programmatic Consultations and Coordination and 50 Code of Federal Regulations (CFR) Part 402. Upfront communication between the BLM and USFWS will enable the RMP and EIS to incorporate an accurate list of USFWS identified special status species (i.e., endangered, threatened, candidate, or proposed) and designated or proposed critical habitat. Continuous coordination with the USFWS will facilitate and expedite the preparation of a Biological Assessment (BA) pursuant to the ESA of 1973, as amended.

The Yuma RMP/EIS project is being directed by the YFO, with technical contributions from resource specialists in the YFO and the BLM Arizona State Office. The YFO will play the central coordination role for BLM during consultation/conferencing with the USFWS. Tetra Tech, designated as the BLM's non-Federal representative (per 50 CFR Section 402.08), will be assisting the YFO in its consultation and coordination with the USFWS. However, the ultimate responsibility for ESA Section 7 compliance resides with the BLM.

Tetra Tech will prepare the draft and final BAs for BLM's review and submission to the USFWS, and also participate in consultation meetings or conferencing between the BLM and USFWS and provide a report to the BLM addressing the outcome of the Section 7 consultation. The results of the ESA Section 7 consultation process with the USFWS will be incorporated into the proposed RMP/final EIS.

With close coordination with the YFO, Tetra Tech will prepare a Biological Assessment in accordance with BLM Manual 6840. The BA will address potential impacts on federally listed species as required by the ESA of 1973, as amended, resulting from the proposed action (or preferred alternative) and land use planning-related decisions contained in the proposed RMP. All anticipated environmental effects, conservation actions, mitigation measures, and monitoring and evaluation will be disclosed in the BA. The environmental impact analysis will cover potential direct and indirect effects of the proposed action, including any interrelated and interdependent actions, on special status species (i.e., endangered, threatened, candidate, or proposed) and designated or proposed critical habitat. In response to the BA addressing potential impacts resulting from the decisions contained in the proposed RMP, the AESO will prepare a Biological Opinion (BO),

including a Conference Opinion (if appropriate) for the USFWS identified special status species and critical habitat that may be affected by the programmatic action.

On 31 January 2005, ESA Section 7-related informal consultation began with the USFWS regarding the Yuma RMP/EIS. A telephone conferencing between the USFWS, YFO and BLM Arizona State Office, and Tetra Tech representatives informed the AESO of the objectives and scope of the land use planning effort and discussed early consultation associated issues or concerns. Formal consultation with the USFWS on this project will commence when a complete written request, as defined in 50 CFR 402.14 (c), including the BA for the Yuma RMP/EIS, is received by AESO.

Attachment A contains the tentative schedule outlining the dates when documents will become available and when review comments are needed for each document. Prior to initiating formal consultation with the USFWS, the YFO will provide the AESO with a draft BA for a 30-day review and comment period. After initiating formal consultation and receiving the final BA, the AESO will provide the YFO with a draft BO for a two-week review period. The AESO will complete the final BO and conclude formal consultation within two weeks after receiving response from the YFO on the draft BO. The AESO will complete the initiation of formal consultation (including receipt of final BA) to final BO issuance within a 135-day timeframe. Request for an extension of the formal consultation period will be made in writing by the AESO to the YFO.

5.0 Operations

In consideration of the above, the parties agree as follows for interagency cooperation between the BLM and USFWS:

The BLM agrees to:

1. Designate Tetra Tech as BLM's non-Federal representative for Endangered Species Act Section 7 consultation and coordination with the USFWS. Mr. Malcom Pious (Biological Resources Team Lead) and Ms. Sarah DeRosear (Wildlife Biologist) will participate as members on the Consultation Team and be Tetra Tech's principal point of contacts regarding preparation of the BA and participation in consultation or conferencing between the BLM and USFWS. If there are any unforeseeable changes in key personnel, new point of contact(s) will be immediately identified by Tetra Tech and the YFO and AESO will be notified.
2. Appoint Mr. Jeff Young (Wildlife Biologist, BLM Yuma Field Office) as the principal point of contact for the BLM for the Endangered Species Act Section 7 consultation and coordination, and as BLM's key representative on the Consultation Team for the Yuma RMP/EIS-related BA. Ms Karen Reichhardt (Resources Team Lead, BLM Yuma Field Office) is designated as the primary alternate, if Mr. Young is not available. If Mr. Young and Ms. Reichhardt are not available, the secondary point of contact would be Mr. Ted Cordery (Endangered Species Coordinator, BLM Arizona State Office). If there are any unforeseeable changes in key personnel, new point of contact(s) will be immediately identified by the YFO and the AESO and Tetra Tech will be notified.

3. Provide resource specialists from the BLM Yuma Field Office and Arizona State Office, as needed, for technical matters pertaining to the Yuma RMP/EIS, the BA and completion of the Section 7 consultation process. BLM will provide the necessary personnel and furnish relevant background information on the selected species to complete the Endangered Species Act Section 7 consultation and coordination in a timely and professional manner.
4. Direct Tetra Tech's principal point of contact(s) to participate in Section 7 consultation meetings with the USFWS during the established timeframes. BLM will participate in consultation or conferencing with the USFWS, as needed, to facilitate effective consultation and coordination. Consultation meetings using teleconference is a recommended cost-effective option for minor issues and problem-solving and for interim reporting.
5. Review and approve the draft and final BA addressing potential impacts on federally listed species prepared by Tetra Tech before submitting the documents to the AESO. The YFO will submit all official correspondence or documentation to the AESO, including the official request to initiate formal consultation with the USFWS, and will make the final agreements with the AESO on any issues involving incidental take or jeopardy of species.
6. Provide the AESO with a 30-day time review and comment period for the draft BE. Prior to initiating formal consultation with the USFWS, the YFO will provide the AESO with a draft BA for a 30-day review and comment period.
7. Provide the AESO with a 135-day timeframe to complete the formal consultation process, including issuance of the final BO. Formal consultation will begin when the final BA is received by the AESO. BLM will incorporate the results of Section 7 consultation process in the Proposed RMP/Final EIS.

The USFWS agrees to:

1. Recognize Tetra Tech as BLM's non-Federal representative for Endangered Species Act Section 7 consultation and coordination with the USFWS.
2. Appoint Mr. David Smith (Title?; Arizona Ecological Services) as the primary point of contact regarding the preparation of the Biological Assessment and participation on the Consultation Team for the Endangered Species Act Section 7 consultation and coordination for the Yuma RMP/EIS. Mr. Tom Gatz (Assistant Field Supervisor, Arizona Ecological Services) will serve as the secondary point of contact if Mr. Smith is not available. If there are any unforeseeable changes in key personnel, new point of contact(s) will be immediately identified by the AESO and the YFO and Tetra Tech will be notified.
3. Provide input on the animals and plants species list and confirm by memo the final list of federally listed species to be addressed in the BA and covered under the Section 7 consultation process for the Yuma RMP/EIS, within the established timeframe (see Attachment A). Assist in the identification of significant wildlife habitats (existing and potential), and recommend data elements needed to address wildlife issues when requested by BLM.

4. Coordinate with USFWS in California (Ventura Office) and agency with similar jurisdiction in Mexico, as necessary, for the purpose of this consultation process under the Endangered Species Act of 1973. USFWS will provide a consolidated species list for the Yuma RMP/EIS planning area in Arizona and California.
5. Provide the necessary personnel and other resources to identify general wildlife situations for federally listed species, and to complete the Endangered Species Act Section 7 consultation and coordination. Use endangered species expertise, as part of the Consultation Team, to formulate species and habitat conservation measures for the Yuma RMP/EIS-related BA. USFWS will participate in consultation meetings with the BLM and Tetra Tech, as needed, to facilitate effective consultation and coordinate the exchange of information for the Yuma RMP/EIS-related BA. Consultation meetings using teleconference is a recommended cost-effective option for minor issues and problem-solving and for interim reporting.
6. Review the draft BA and provide written comments to the YFO within **30 days** from the time the draft BA is submitted.
7. Issue a final BO within **135 days** from the time the final BA is submitted to the USFWS, unless extension of this timeframe is mutually agreed upon by the YFO and AESO. Coordinate the release of the final BA and Bo for the Proposed RMP/Final EIS.
8. Provide other assistance, technical support, and advice upon request from BLM.

The BLM and USFWS mutually agree to:

1. Involve the Arizona Game and Fish Department (AGFD) in this consultation process pursuant to the “Memorandum of Agreement between Arizona Game and Fish Department and U.S. Fish and Wildlife Service Region 2 on State Agency Participation in Implementation of the Endangered Species Act: State of Arizona” (dated June 26, 2002). The AGFD has appointed Ms. Laura Canaca (Land and Resources Planning Coordinator) as their liaison for all Endangered Species Act Section 7 consultation and coordination, and as their representative on the Consultation Team for the Yuma RMP/EIS-related BA. If Ms. Canaca is not available, the secondary point of contact for AGFD would be **Dr. Russ Engle (Title ?)** or **Ms. Rebecca Davidson (Title ?)**. If there are any unforeseeable changes in key personnel, new point of contact(s) will be immediately identified by the AGFD and the YFO, AESO and Tetra Tech will be notified.
2. Form a Consultation Team composed of the principal point of contacts from the BLM, USFWS, Tetra Tech, and AGFD identified in this Agreement. This team will conduct all day-to-day functions of the informal and formal consultation process for the Yuma RMP/EIS-related BA.
3. Determine the data needs and level of detail for analysis of each species potentially affected by the Yuma RMP. Because of the programmatic level of this project, both BLM and

USFWS agree to use best available information for the impact analysis of each species. The timeframe for this task is agreed to in Attachment A.

4. Define the proposed project area to facilitate the effects analysis of the federally listed species potentially affected by the proposed action, particularly along the western Arizona state border with California and international border with Mexico. The timeframe for this task is agreed to in Attachment A.
5. Identify and adhere to all time commitments in the Section 7 consultation process, including submission and review of all documents (see Attachment A). If the schedule cannot be met and changes are required, schedule changes will not be finalized without mutual agreement between the YFO and AESO on the necessary deadline changes. Provide early notification to the principal point of contacts, if any problems arise that would affect the timeframe for review of relevant documents and require a schedule change.
6. Follow the consultation initiation criteria as outlined in 50 CFR Section 402.14(c) which addresses the relevant contents and expectations of the BA prior to preparation of the draft.
7. Evaluate situation, share information, and provide inputs from lessons learned, as needed, on Section 7 consultation process and the handling of special status species from other concurrent projects by the Arizona BLM, if they are relevant for the Yuma RMP/EIS.
8. Coordinate as strategic partners for ecosystem-based land and resource management planning by mutually agreeing on conservation measures to protect or promote recovery of federally listed special and critical habitats covered in the Yuma RMP/EIS.
9. Either party, in writing, may terminate this Agreement in whole, or in part, at any time before the date of expiration. In the event of termination, a 60-day written notice should be provided. Changes within the scope of this Agreement shall be made by the issuance of a bilaterally executed modification.
10. Acknowledge that this Agreement is only intended to improve the consultation and coordination between the YFO, AESO, and Tetra Tech, and it is not intended to and does not create any right or benefit, substantive or procedural, enforceable by law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. This Agreement is neither a fiscal nor a funds obligation document.
11. Recognize and adopt the Issue Resolution Teams (IRT) as outlined below in Section 6.0, if an impasse is reached regarding any aspect of this Agreement, the Endangered Species Action Section 7 consultation process, or with the BA and BO. Elevating of relevant issues to the IRTs will follow a tiered process as follows: (1) Level 1— BLM Yuma Field Office and USFWS Ecological Services Office; (2) Level 2— BLM Arizona State Office and USFWS Regional Office; and (3) Level 3— BLM and USFWS National Offices. The regional and national IRTs are consistent with the USFWS memorandum (dated December 13, 2001) by Ms. Nancy Kaufman (former Regional Director, USFWS Region 2).

6.0 Issue Resolution Process

Every possible effort will be made by the YFO, AESO, and Tetra Tech to prevent impasses by frequent and thorough coordination and information sharing throughout the Endangered Species Act Section 7 consultation process. Both parties to this Agreement commit to using IRTs to resolve any impasses that do arise during the consultation process. If the Consultation Team cannot resolve an issue, all team members will mutually agree to elevate the issue to the Level 1 IRT. If a specific issue cannot be resolved by an IRT, the members of that IRT will jointly agree to pass the issue up to the next level IRT.

Described below are the IRTs identified for purposes of this Agreement and Section 7 consultation process for the Yuma RMP/EIS. The Tetra Tech Project Manager or designee(s) will be assigned to each IRT to assist in resolving any issues that are elevated by the Consultation Team.

- Local Issue Resolution Team: Interagency team of decision-makers from the BLM Yuma Field Office and USFWS Arizona Ecological Services Office, responsible for resolving issues elevated by the Consultation Team. Core members of this Level 1 IRT would include the BLM Yuma Field Office Manager and the AESO Field Supervisor.
- State/Regional Issue Resolution Team: Interagency team of decision-makers from the BLM Arizona State Office and USFWS Regional Office (Region 2), responsible for resolving issues elevated from the Level 2 IRT. Core members of this Level 2 IRT would include the BLM Arizona State Director and the USFWS Regional Director (Region 2).
- National Issue Resolution Team: Interagency team of federal agency Directors, responsible for resolving issues relating to the proposed project and consultation effort elevated by the State/Regional (Level 2) IRT. Core members of this Level 3 IRT would include the BLM Director and the USFWS Director, or their designees.

7.0 Effective Period

This Agreement is executed as of the last date shown below. It shall remain in effect until the Record of Decision for the proposed RMP/final EIS is signed.

8.0 Approval

The parties hereto have executed this Agreement.

Name?

Field Office Manager
Bureau of Land Management,
Yuma Field Office

Date

Steven L. Spangle
Field Supervisor
U.S. Fish and Wildlife Service,
Arizona Ecological Services Office

Date

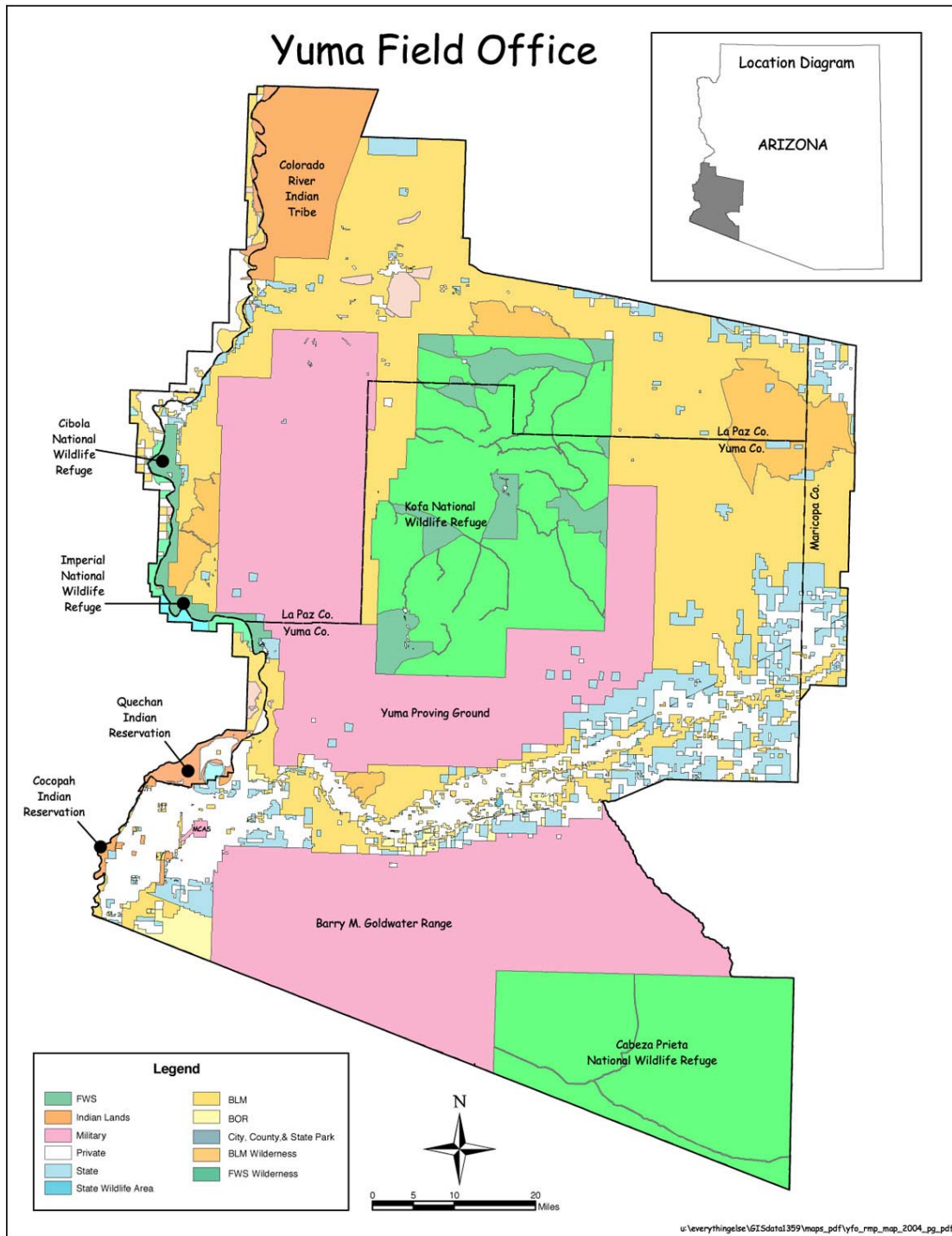


Figure 1
Project Location Map

ATTACHMENT A

**Proposed Schedule for the ESA Section 7 Consultation Process
Between BLM Yuma Field Office (YFO), USFWS Arizona Ecological Services Office (AESO), and Tetra Tech, Inc.
on the Yuma Resource Management Plan and Environmental Impact Statement**

Task Description (By Whom?)	Duration ^a	Estimated Due Date to Agency ^b	Estimated Due Date for Response or Comments^b
Final Species List for Yuma RMP/EIS (AESO to YFO via memorandum)	14 days		February 15, 2005
Definition of Project Action Area & Agreement on Level of Detail for Species Analysis (Tetra Tech to YFO/AESO; AESO verifies by memorandum to YFO)	14 days	April 15, 2005	
Review of Draft Biological Assessment by BLM (YFO; submit written comments to Tetra Tech)	14 days	TBD	TBD
Revise Draft Biological Assessment (Tetra Tech; submit to YFO & AESO)	14 days	TBD	TBD
Review of Draft Biological Assessment by AESO (AESO; submit written comments to YFO)	30 days	TBD	TBD
Revise Biological Assessment to Final BA (Tetra Tech; submit Final BE to YFO)	30 days	TBD	TBD
Final BA Submittal for Formal Consultation (Final BA from YFO to AESO)	135 days to Final BO	TBD	TBD
Preparation of Draft Biological Opinion (AESO; submit Draft BO to YFO)	100 days from Final BA submittal	TBD	TBD
Review of Draft Biological Opinion (YFO & Tetra Tech; submit written comments to AESO)	14 days	TBD	TBD
Revise Biological Opinion to Final BO (by AESO)	14 days	TBD	TBD
Submit Final BO & Conclude Formal Consultation (AESO submits Final BO to YFO)	135 days from Final BA submittal	TBD	TBD

^a Timeframes may be changed, with mutual agreement by all parties to this Consultation Agreement. All timeframes are in calendar days.

^b Actual dates to be determined upon reaching agreement on the timeframe needed to complete specific tasks. Dates may change, depending upon the actual time necessary to complete the specific tasks. The duration for each task will be used to guide the consultation process. Specific dates will be established at least 60-90 days in advance and the affected parties will be notified.